



1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

www.wileyrein.com

Hume M. Ross
202.719.7296
HRoss@wileyrein.com

January 30, 2018

VIA EPA FOIA ONLINE PORTAL

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

RE: FOIA REQUEST

Dear HQ FOIA Staff:

Pursuant to the Freedom of Information Act ("FOIA"), as amended, 5 U.S.C. Section 552, and the Environmental Protection Agency ("EPA" or "Agency") rules issued thereunder, 40 C.F.R. Part 2, I am requesting the following records, all of which were described in Chapter 2 of the National Marine Fisheries Service ("NMFS") Biological Opinion for chlorpyrifos, diazinon, and malathion issued on December 29, 2017 and provided to EPA's Office of Pesticide Programs:

- (1) Any and all records in EPA's possession which in any way relate to the discussion of the preparation of biological opinions during the Federal Advisory Committee Act, Pesticide Program Dialogue Committee meeting held on December 5, 2013 between, among others, EPA, NMFS, FWS and USDA, including but not limited to emails, letters, memoranda, agendas, reports, presentations, action items, notes, summaries, or transcripts relating thereto.
- (2) Any and all records in EPA's possession which in any way relate to the discussion of the preparation of biological opinions during Crop Life America's Annual Spring Meeting held on April 8-9, 2014, including but not limited to emails, letters, memoranda, agendas, reports, presentations, action items, notes, summaries, or transcripts relating thereto.
- (3) Any and all records in EPA's possession in any way related to the preparation of biological opinions in the December 2014 "Status Report to Congress on Endangered Species Act Implementation in Pesticide Regulation", including but not limited to emails, letters, memoranda, reports, notes, drafts, or summaries relating thereto.
- (4) Any and all records in EPA's possession in any way related to any version of the Draft Project Formulation, Effects Characterizations, Appendices,

January 30, 2018

Page 2

Fate Assessment, and modeling documents for EPA's evaluation of diazinon, malathion, and chlorpyrifos that were forwarded by EPA to NMFS and FWS for review including but not limited to emails, letters, memoranda, reports, notes, drafts, or summaries relating thereto.

- (5) Any and all records in EPA's possession which in any way relate to the discussion of the preparation of biological opinions during the FIFRA Endangered Species Task Force ("FESTF") meeting held on July 14, 2015 between EPA, NMFS, FWS and USDA, including but not limited to emails, letters, memoranda, agendas, reports, presentations, action items, notes, summaries, or transcripts relating thereto.
- (6) Any and all records in EPA's possession which in any way relate to the discussion of the preparation of biological opinions during the Society of Environmental Toxicology and Chemistry ("SETAC") North America Meeting - All day platform pesticide session held on November 1, 2015 between, among others, EPA, NMFS, FWS and USDA, including but not limited to emails, letters, memoranda, agendas, reports, presentations, action items, notes, summaries, or transcripts relating thereto.
- (7) Any and all records in EPA's possession related to the review of, and preparation of responses to, public comments received on the Draft Biological Evaluations ("BEs") for diazinon, malathion, and chlorpyrifos that were released on April 4, 2016, including but not limited to emails, letters, memoranda, reports, notes, drafts, or summaries relating thereto.
- (8) Any and all records in EPA's possession which in any way relate to the discussion of the preparation of biological opinions during the Two-day Interactive Stakeholder Workshop held on June 29-30, 2016 between, among others, EPA, NMFS, FWS and USDA, including but not limited to emails, letters, memoranda, agendas, reports, presentations, action items, notes, summaries, or transcripts relating thereto.

If for any reason you determine that portions of the requested information are exempt from disclosure under FOIA, please delete the allegedly exempt material, inform me of the basis for the claimed exemption, and furnish me with copies of those portions of the document that you determine not to be exempt. My consent to such deletion at this time is designed to facilitate your prompt response and in no way waives my right to appeal any determination that you may make regarding the applicability of any FOIA exemptions to the requested documents and information.



January 30, 2018

Page 3

If you determine that any complete documents are exempt from disclosure, please provide me with an index to them and explain the basis for that conclusion.

I request that you provide me with accurate copies of the information requested. I agree to pay reasonable search and reproduction costs. If these costs exceed \$250.00, however, I request that you notify me before reproducing the documents.

Pursuant to FOIA, I understand that EPA will respond with an initial determination regarding this request within 20 working days of your receipt of this letter. Should there be any need to delay providing records beyond that time, we request that responsive records be provided as they are identified, on a rolling basis, and that the Agency not await compilation of all responsive records before providing those that have been identified and need not be subject to further review to comply with legal requirements.

Please use the following address for any correspondence or responses:

Hume M. Ross
Wiley Rein LLP
1776 K Street NW
Washington, DC 20006
(202)719-7296
hross@wileyrein.com

If you have any questions about this request or require further information, please email me at hross@wileyrein.com or call me at 202-719-7296. Thank you in advance for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to be "HMR" followed by a flourish.

Hume M. Ross